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File #: CVSP3 0068J22 MCS/FKL
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and NEW JERSEY CVS PHARMACY, LLC)*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

CHERYL MURRAY,

Plaintiff(s),

VS.

**CVS PHARMACY INC, NEW JERSEY
CVS PHARMACY, L.L.C., ZBS REALTY,
LLC c/o ROBERT LEBOVICS, "JOHN
DOES 1-5", and "ABC COMPANIES 1-5",
(both being fictitious designations),**

Defendant(s).

CASE NO. _____

**From: Superior Court of New Jersey,
Law Division, Bergen County
Vicinage, Docket No. BER-L-1518-22**

NOTICE OF REMOVAL

TO THE CLERK OF THE COURT:

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1331, 1367(a), 1441, 1446; and 42 U.S.C. § 1983, defendant, NEW JERSEY CVS PHARMACY, LLC (i/s/h/a CVS PHARMACY INC. and NEW JERSEY CVS PHARMACY, LLC), through the undersigned attorneys, hereby removes the above-captioned civil action, and all claims and causes of action therein, from the Superior Court of New Jersey, Law Division, Bergen County Vicinage, to the United States District Court for the District of New Jersey, Newark Vicinage.

JURISDICTION & AUTHORITY FOR REMOVAL

1. On March 15, 2022, plaintiff commenced this action by filing a Complaint in the Superior Court of New Jersey, Law Division, Bergen County (“the State Action”). The Complaint names NEW JERSEY CVS PHARMACY, LLC (i/s/h/a CVS PHARMACY INC. and NEW JERSEY CVS PHARMACY, LLC) and ZBS REALTY, LLC as defendants.

2. A copy of the Complaint in the State Action is annexed hereto as **EXHIBIT A**.

3. The Federal District of New Jersey, Newark Vicinage, encompasses Bergen County.

4. This Court has original jurisdiction over this civil action pursuant to 28 U.S.C. §§ 1332 because there exists diversity of citizenship between the plaintiffs and defendants and, upon information and belief, the amount in controversy exceeds the sum of \$75,000.00 exclusive of interests and costs.

5. Under the provisions of 28 U.S.C. §1441, the right exists to remove this civil action from the Superior Court of the State New Jersey, Bergen County, to the United States District Court for the District of New Jersey, Newark Vicinage, which embraces the place where this action is pending. In the Complaint, Plaintiff, Cheryl Murray, seeks judgment as a result of personal injuries allegedly sustained as a result of a trip and fall accident that allegedly occurred on September 09, 2021, in the CVS store located at 540 Cedar Lane, Township of Teaneck, County of Bergen and state of New Jersey.

6. Service was effectuated by the plaintiff on March 24, 2022. As such, removal of this matter is timely pursuant to 28 U.S.C. §§ 1446(b).

7. This action involves a controversy between citizens of different States. The plaintiff is, and was at the commencement of the action, a citizen of New Jersey. Upon information and belief, the Defendant, ZBS Realty, LLC, is a Domestic Limited Liability

Company, registered in the State of New Jersey, whose members are citizens of the State of New York. The Defendant, NEW JERSEY CVS PHARMACY, LLC (i/s/h/a CVS PHARMACY INC. and NEW JERSEY CVS PHARMACY, LLC), is a domestic limited liability company, registered in the State of New Jersey. The citizenship of a limited liability company is determined by the citizenship of its members. *See Carden v. Arkoma Assocs.*, 494 U.S. 185, 110 S.Ct. 1015 (1990); *Quantlab Fin., LLC, Quantlab Tech. Ltd. (BVI) v Tower Research Capital, LLC*, 715 F Supp 2d 542 (S.D.N.Y. 2010). CVS PHARMACY, INC. is the sole member of Defendant NEW JERSEY CVS PHARMACY, LLC and is a foreign business corporation at all times having its principal place of business at One CVS Drive, Woonsocket, Rhode Island, 02895, and having been registered as a corporation in the State of Rhode Island. As such, the Defendant, NEW JERSEY CVS PHARMACY, LLC, has Rhode Island citizenship for purposes of diversity jurisdiction and the Defendant, ZBS Realty, LLC, has New York citizenship for purposes of diversity jurisdiction.

8. No Answer has been filed by or on behalf of NEW JERSEY CVS PHARMACY, LLC (i/s/h/a CVS PHARMACY INC. and NEW JERSEY CVS PHARMACY, LLC), or any other defendant, in the State Action.

9. No other process, pleadings, or orders have been served on NEW JERSEY CVS PHARMACY, LLC in the State Action.

10. Upon information and belief, Plaintiff's amount in controversy exceeds the \$75,000.00 threshold. Plaintiffs' Complaint does not specify the amount of damages because under the New Jersey Rules of Court, Rule 4:5-2, a plaintiff in a personal injury matter seeking unliquidated damages in the Superior Court, Law Division, is not permitted to assert the damages amount in the Complaint. The Complaint sets forth general allegations that Plaintiff, CHERYL MURRAY sustained severe and permanent injuries that cause her to endure pain and suffering.

Based on information obtained from plaintiff's counsel, the plaintiff claims to have sustained injury to her right shoulder which requires surgical repair and her back. If these allegations are ultimately proven, all of which are expressly denied, then a verdict in this matter could exceed \$75,000.00. Therefore, the District Court has jurisdiction over this action.

NOTICE TO PLAINTIFFS AND SUPERIOR COURT OF REMOVAL

11. The defendant, NEW JERSEY CVS PHARMACY, LLC (i/s/h/a CVS PHARMACY INC. and NEW JERSEY CVS PHARMACY, LLC) through its attorney, will promptly serve a copy of this Notice of Removal on counsel for the plaintiffs, and will promptly file a copy of this Notice of Removal with the Clerk of the Superior Court, Law Division, Bergen County Vicinage pursuant to 28 U.S.C. § 1446(d).

AHMUTY DEMERS & MCMANUS

BY: /s/ Michael C. Salvo
MICHAEL C. SALVO, ESQ.

Dated: April 14, 2022